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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,178	09/12/2003	Fredric Louis Abrams	MTY 065 P2 CI-3	8293

34232 7590 09/29/2005

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EXAMINER	
EASHOO, MARK	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/661,178	ABRAMS ET AL.	
	Examiner	Art Unit	
	Mark Eashoo, Ph.D.	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 77-93* is/are pending in the application.

4a) Of the above claim(s) *1,77-82 and 88-93* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *83-87* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *feb-04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 83-87 in the reply filed on 08-SEP-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1, 77-82, and 88-93 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 08-SEP-2005.

Information Disclosure Statement

The information disclosure statement filed 17-FEB-2004 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, it has been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 83-84 are rejected under 35 U.S.C. 102(b) as being anticipated by Jameson (US Pat. 5,238,633).

Jameson teaches the claimed process, comprising: processing a contaminated polymer (1:5-45); directly producing a part using one thermal heat rise (4:35-55 and Fig. 2); and shredding a contaminated polymer (3:15-35).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson (US Pat. 5,238,633) in view of Hawley (US Pat. 5,165,941).

Jameson teaches the basic claimed process as set forth above regarding claim 83.

Jameson does not teach forming a billet and then forming the billet into a part. However, Hawley teaches forming a billet/preform and then forming the billet/preform into a part (Fig. 1 and 5:35-45). Jameson and Hawley are combinable because they are from the same field of endeavor, namely, forming fiber-reinforced molded articles. At the time of invention a person of ordinary skill in the art would have found it obvious to have molded a perform into a part, as taught by Hawley, in the process of Jameson, and would have been motivated to do so since Hawley teaches.that preforms may be in the form of extruded sheets (5:3-11) thereby would allowing other production of more products from the process of Jameson (ie. economic benefit).

Jameson does not teach processing a molding material in the range of 190-300°C (375-575°F) . Nonetheless, Official Notice is given that processing temperatures of feed materials are well known to be optimized through routine experimentation. At the time of invention a person of ordinary skill in the art would have found it obvious to optimized the processing material of the feed material, as commonly practiced in the art, in the process of Jameson, and would have been motivated to do so in order to provide an appropriate material melt viscosity for molding with out causing material degradation.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 83-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 5,800,757. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claims of U.S. Patent No. 5,800,757 teach the basic claimed process, comprising: processing a contaminated polymer (claim 11); directly producing a part using one thermal heat rise (claim 1); and forming a billet into a part (claims 1-2).

The claims of U.S. Patent No. 5,800,757 does not teach processing a molding material in the range of 190-300°C (375-575°F). Nonetheless, Official Notice is given that processing temperatures of feed materials are well known to be optimized through routine experimentation. At the time of invention a person of ordinary skill in the art would have found it obvious to optimized the processing material of the feed material, as commonly practiced in the art, in the process of the claims of U.S. Patent No. 5,800,757, and would have been motivated to do so in order to provide an appropriate material melt viscosity for molding with out causing material degradation.

The claims of U.S. Patent No. 5,800,757 does not teach shredding a contaminated/recycled feed material. Nonetheless, Official Notice is given that shredding a contaminated/recycled feed material is well known. At the time of invention a person of ordinary skill in the art would have found it obvious to shredded a contaminated/recycled feed material, as commonly practiced in the art, in the process of the claims of U.S. Patent No. 5,800,757, and would have been motivated to do so in order to provide an appropriately sized material for feeding to an extruder.

Claims 83-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,190,586. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claims of U.S. Patent No. 6,190,586 teach the basic claimed process, comprising: processing a contaminated polymer (claim 2); directly producing a part using one thermal heat rise (claim 1); forming a billet into a part (claims 1 and 22); and processing a molding material in the range of 190-300°C or 375-575°F (claim 17).

The claims of U.S. Patent No. 6,190,586 does not teach shredding a contaminated/recycled feed material. Nonetheless, Official Notice is given that shredding a contaminated/recycled feed material is well known. At the time of invention a person of ordinary skill in the art would have found it obvious to shredded a contaminated/recycled feed material, as commonly practiced in the art, in the process of the claims of U.S. Patent No. 6,190,586, and would have been motivated to do so in order to provide an appropriately sized material for feeding to an extruder.

Claims 83-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,620,353. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claims of U.S. Patent No. 6,620,353 teach the basic claimed process, comprising: directly producing a part using one thermal heat rise (claim 1-18); forming a billet into a part (claims 1-18); and processing a molding material in the range of 190-300°C or 375-575°F (claim 15).

The claims of U.S. Patent No. 6,620,353 does not teach processing a contaminated polymer and shredding a contaminated/recycled feed material. Nonetheless, Official Notice is given that processing a contaminated polymer shredding a contaminated/recycled feed material is well known. At the time of invention a person of ordinary skill in the art would have found it obvious to shredded a contaminated/recycled feed material, as commonly practiced in the art, in the process of the claims of U.S. Patent No. 6,620,353, and would have been motivated to do so in order to provide an appropriately sized material for feeding to an extruder and to use a relatively inexpensive feed material (ie. a recycled material).

Claims 83-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 5,591,384. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claims of U.S. Patent No. 5,591,384teach the basic claimed process, comprising: processing a contaminated polymer (claim 2); directly producing a part using one thermal heat rise (claims 1-22); forming a billet into a part (claims 1-22); and processing a molding material in the range of 190-300°C or 375-575°F (claim 17).

The claims of U.S. Patent No. 6,190,586 does not teach shredding a contaminated/recycled feed material. Nonetheless, Official Notice is given that shredding a contaminated/recycled feed material is well known. At the time of invention a person of ordinary skill in the art would have found it obvious to shredded a contaminated/recycled feed material, as commonly practiced in the art, in the process of the claims of U.S. Patent No. 6,190,586, and would have been motivated to do so in order to provide an appropriately sized material for feeding to an extruder.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

September 18, 2005
me

18/Sep/05